

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2536 OF 2024

Isan Aveya Bahera Sarvjeet	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Ashok M. Saraogi, for the Applicant.

Ms. P. P. Bhosale, APP, for the Respondent No.1-State.

Ms. Disha Rathod, for Respondent No.2.

Mr. Sunil Wagh, A.P.I., Panvel City Police Station, Navi Mumbai, present.

CORAM: MADHAV J. JAMDAR, J.
DATED: DECEMBER 14, 2024

P.C.:

1. Heard Mr. Saraogi, learned Counsel for the Applicant, Ms. Bhosale, learned APP for the Respondent No.1 – State and Ms. Rathod, learned Counsel appointed to represent the interest of the Respondent No.2.

2. This is the second Bail Application filed under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C.R. No.	23 of 2024
2	Date of registration of F.I.R.	15/01/2024
3	Name of Police Station	Panvel City, Navi Mumbai
4	Section/s invoked	376, 376(2)(n), 406, 417, 354, 500, 506 of the <i>I.P.C., 1860</i> ; 66 & 67(A) of the <i>Information Technology Act, 2000</i> .

5	Date of incident	28/04/2023-25/12/2023
6	Date of arrest	20/01/2024
7	Date of filing Charge-sheet	15/03/2024

3. At the outset, it is required to be noted that the first Bail Application filed by the present Applicant being Bail Application No.1469 of 2024 has been allowed to be withdrawn by this Court by Order dated 16th April 2024. By said Order dated 16th April 2024 although the Bail Application was allowed to be withdrawn, liberty was granted to file a fresh Bail Application after a period of 8 months. However, the Applicant filed this Bail Application on 20th June 2024 *inter alia* on the medical ground of his father and mother.

4. The Respondent – State of Maharashtra has filed additional Affidavit dated 6th September 2024 of Pravin H. Bhagat, Police Inspector, presently attached to Panvel City Police Station, Navi Mumbai, wherein Certificate of Dr. Chandan Kumar Ray Mohapatra of Kalinga Institute of Medical Sciences (KIMS), Bhubaneswar - 24 is annexed. In the said Certificate dated 28th August 2024, it is stated that Mr. Abhaya K. Behera i.e. father of the Applicant is clinically stable and came to OPD in walking condition alone and he has been advised for medical management. Thus, it is clear that no case is made out for grant of bail on the ground of medical condition of the father of the Applicant.

5. Mr. Saraogi, learned Counsel for the Applicant submitted that by Order dated 16th April 2024 liberty was granted to file Bail Application after a period of 8 months and the said period is almost completed. He submits that till date there is no progress in the trial and even the charge is also not framed and therefore the Applicant be granted bail on the ground of delay in trial.

6. On the other hand, Ms. Rathod, learned Counsel appointed to represent the interest of the Respondent No.2 submitted that if the Applicant is released on bail, then there is likelihood that the Applicant may try to pressurize the victim and the other witnesses. She further submits that the offence involved in the present case is a heinous offence and the record shows that the victim has suffered trauma due to the conduct of the Applicant. She submitted that there is further possibility of commission of the crime by the Applicant. She therefore submitted that the Bail Application be rejected.

7. Ms. Bhosale, learned APP submitted that the Respondent No.1 – State of Maharashtra has filed Affidavit-in-Reply dated 8th August 2024 opposing grant of bail to the Applicant. She pointed out various averments in the said Affidavit. She submitted that material on record clearly shows that the Applicant is involved in very serious offence. She submitted that the offence is *inter alia* under Sections 376 & 376(2)(n) of the *Indian Penal Code, 1860* and therefore the Bail Application be

rejected.

8. The prosecution case is set out in Paragraph No.5 of the Affidavit-in-Reply dated 8th August 2024 filed on behalf of Respondent No.1 – State of Maharashtra, which reads as under:-

“5. I say that the prosecution case in brief is as under:

(a) That on 22/10/2022, victim received a request for marriage on her portal of JeevanSathi (Profile ID - WWTT5135) made by the accused. He had given his call numbers and communication of both of them started. It is the case of the informant that the accused informed that, he is from Orissa State, presently residing in Pune. It is the case of the informant that he informed that he is taking education in Symbiosis College and intending to do job at Mumbai. It is the case of the informant that Accused also informed her that he owns house in Aundh, at Pune.

(b) It is the case of the informant that thereafter on 28/04/2023, the accused came to Takka, Panvel, met the victim at her house. It is the case of the informant that her parents were out of the station. It is the case of the informant that Accused gave promise of marriage, tried to have physical relationship, victim resisted but the accused succeeded in having physical relationship.

(c) It is the case of the informant that during this process the accused had taken some obeisance photos in his cell phone. The physical relationship was continued for 2-3 days. Thereafter the accused left to Pune, along with the laptop of the victim.

(d) It is the case of the informant that victim and accused were in contact through WhatsApp and through phone calls. It is the case of the informant that in June, 2023, the accused demanded money and the victim paid him Rs.5,00,000/- for starting a business.

(e) *It is the case of the informant that till October 2024, the accused took amount of Rs.7,50,000/- and during this period victim and accused were in communication with each other on cell phone.*

(f) *It is the case of the informant that thereafter parents of the victim started enquiring with her as to when the accused will get the job and they would perform marriage.*

(g) *It is the case of the informant that thereafter the accused refused to perform the marriage with the informant and he also refused to hand over documents and information about him and he started threatening to make viral the obscene photos and videos of informant.*

(h) *It is the case of the informant that on 25/12/2023 the accused through his cell phone forwarded obscene photographs of the victim to her parents, sister and maternal uncle. It is the case of the informant that Accused threatened to send the obscene photographs watchman of the society.*

(i) *On the basis of the complaint lodged by the Orig. Complainant/Informant, offence vide CR No. 23/2024 under sections 376, 376(2)(n), 406, 417, 354, 500 of the Indian Penal Code r/w section 66 and 66A of Information Technology Act 2008 was registered with Panvel City Police Station, Navi Mumbai and investigation was assigned to Police Inspector Mr. Anjum Bagwan, attached to Panvel City Police Station, Navi Mumbai.”*

9. The material on record shows that the Applicant is involved in very serious crime.

10. It is required to be noted that the first Bail Application was allowed to be withdrawn as no case was made out for granting bail on merits. Perusal of the record clearly shows that no case is made out by the Applicant for granting bail on merits.

11. By said Order dated 16th April 2024 allowing withdrawal of the first Bail Application, liberty has been granted to the Applicant to file a fresh Bail Application after a period of 8 months. Now the said period of 8 months has come to an end.

12. The material on record shows that although F.I.R. has been lodged on 15th January 2024 and the Applicant was arrested on 20th January 2024, till date even the charge is also not framed.

13. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

14. Ms. Bhosale, learned APP states that there are no other antecedents against the Applicant.

15. Accordingly, case is made out for granting bail by imposing conditions.

16. However, there is substance in the apprehension expressed by Ms. Rathod, learned Counsel appointed to represent the interest of the Respondent No.2 and Ms. Bhosale, learned APP that the Applicant will try to influence the victim and the other witnesses. In view of said contention, Mr. Saraogi, learned Counsel for the Applicant, after taking

¹ Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

instructions, states that the Applicant will reside at Mumbai and the Applicant will report to the Azad Maidan Police Station, District - Mumbai City after being released on bail.

17. The Applicant does not have any criminal antecedents.

18. The Applicant does not appear to be at risk of flight.

19. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

20. In view thereof, the following order:-

ORDER

- (a) The Applicant - Isan Aveya Bahera Sarvjeet be released on bail in connection with C.R. No.23 of 2024 registered with the Panvel City Police Station, Navi Mumbai on his furnishing PR. Bond of Rs.1,00,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Raigad district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Azad Maidan Police Station, District – Mumbai City once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Azad Maidan Police Station, District – Mumbai City to communicate details thereof to the

Investigating Officer.

- (e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

21. The Bail Application is disposed of accordingly.

22. It is clarified that the Trial Court shall decide the case on its merits uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]